

### III. REMARKS

Claims 10-12, 14-17, 19, 23-24, 32-33, and 36-37 are pending in this action. Claims 10-14, 23 and 32-33 are rejected under 35 USC 101 as being allegedly being directed to non-statutory subject matter. Claims 10-12, 14-17, 19 and 23-24 are rejected under 35 USC 103(a) as allegedly being unpatentable over Verbeke (US 2004/0098447) in view of Greenfield (US 4931928) in further view of Kataoka (US 5862382). Claims 32-33 and 36-37 were rejected under 35 USC 103(a) as allegedly being unpatentable over Verbeke in view of Ekkel (US 2003/0088571) further in view of Greenfield and further in view of Kataoka. Claims 10, 23 and 32 have been amended. Applicant respectfully traverses the 35 USC 101 and 103(a) rejections for the reasons provided below.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

#### A. REJECTIONS BASED ON 35 USC 101

In the Office Action, claims 10-14, 23 and 32-33 are rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter. Without conceding the correctness of the Office's interpretation, and to facilitate early allowance of the pending claims, claims 10, 23 and 32 have been amended to include "at least one computer

hardware device.” Accordingly, Applicant asserts that the basis for the Office’s rejection has been obviated and respectfully request withdrawal of the rejection.

B. REJECTION OF CLAIMS 10-12, 14-17, 19, 23-24, 32-33, and 36-37 UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §103(a) rejections of claims 10-12, 14-17, 19 and 23-24 over Verbeke in view of Greenfield in further view of Kataoka; and claims 32-33 and 36-37 over Verbeke in view of Ekkel further in view of Greenfield and further in view of Kataoka, Applicant asserts that the combined references cited by the Office fail to teach or suggest each and every feature of the claimed invention.

The Office cites to Verbeke Col 15:0180-0181 in support of its allegations that Verbeke teaches “a code pattern classifier for analyzing source code generated on a sharing node in the network to identify a set of code patterns” of claim 10 (and similarly claims 15, 23, 32 and 36). Final Office Action p.6. In support of this reference and allegation the Office cites: “...that share a common set of interests and access any computer content (code, data, applications,...” from the reference.

The referenced sentence of Verbeke in its entirety states “A peer group is a collection of peers connected by a network that share a common set of interests and that have agreed upon a common set of rules to publish, share and access any computer content (code, data, applications, or other collections of computer representable resources), and communicate among themselves.” This reference does not teach or suggest “a code pattern classifier for analyzing source code generated on

a sharing node in the network to identify a set of code patterns.” Greenfield, Kataoka, and Ekkel do not cure the deficiency.

The referenced citation to Verbeke appears to define “a peer group” whereas claim 1 recites, *inter alia*, “a code pattern classifier.” These are distinctly different terms even when given broad interpretation. Thus, Verbeke does not teach or suggest “a code pattern classifier.”

The reference describes “shar[ing] a common set of interests” and “agree[ing] upon a common set of rules to publish, share and access any computer content.” The referenced citation does not teach or suggest “analyzing source code.” There is no reference to “analyzing” or to “analyzing source code.” The referenced citation does not teach or suggest “identify a set of code patterns.” There is no reference to “identify” or to “identify a set of code patterns.” Thus, Verbeke does not teach or suggest “analyzing source code” or “identify a set of code patterns.”

Similarly, the Office cites to Greenfield Col. 4:58-67 in support of its allegations that it teaches the “source code indexer for selectively indexing the source code, a dependent code type, and an application code” of claim 10 (and similarly claims 15, 23, 24, 32 and 36). Final Office Action p.6-7. Greenfield does not teach this feature or the associated elements of this feature. The Office in its Response to Arguments cites to Greenfield 5:3-8 in further support of its allegations stating Greenfield teaches a “symbol table subsystem 32 provides a dictionary of symbols found in the source code” and then interpreting the cited reference by stating “those of ordinary skill in the art would reasonably interpret “dictionary” as the broadly claimed “index.” Final Office Action p.4.

The recited element of claim 1 is a “source code indexer” not an “index” as stated by the Office. Further, claim 1 recites the “source code indexer” for “selectively indexing the source code.” “Indexing” and “indexer” are distinctly different terms from the noun “dictionary” even when given broad interpretation. Accordingly, Greenfield does not teach this element of claim 10 (and similarly claims 15, 23, 24, 32 and 36). Verbeke, Kataoka and Ekkel do not cure the deficiency.

Applicant submits that the combined references cited by the Office fail to teach or suggest each and every feature of claims 10, 15, 23, 24, 32 and 36. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With respect to the dependent claims, Applicant herein incorporates the arguments presented above with respect to the independent claims from which the claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

#### **IV. CONCLUSION**

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserves the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/David E. Rook/

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